# ORDINANCE NO. 2479

AN ORDINANCE OF THE COMMON COUNCIL OF THE TOWN OF GILBERT, ARIZONA, AMENDING THE LAND DEVELOPMENT CODE OF GILBERT, ARIZONA, CHAPTER I ZONING REGULATIONS, AS FOLLOWS: (1) DIVISION 2 LAND DESIGNATIONS, ARTICLE 2.1 **SINGLE FAMILY** RESIDENTIAL DISTRICTS, SECTION 2.103 LAND USE REGULATIONS, TABLE 2.103 LAND USE REGULATIONS -SINGLE FAMILY RESIDENTIAL DISTRICTS AND ARTICLE 2.2 MULTI-FAMILY RESIDENTIAL DISTRICTS, SECTION 2.203 LAND USE REGULATIONS. TABLE 2.203 LAND USE REGULATIONS - MULTI-FAMILY RESIDENTIAL DISTRICTS; (2) DIVISION 4 GENERAL REGULATIONS. ARTICLE 4.5 SUPPLEMENTAL USE REGULATIONS, BY ADDING NEW SECTION 4.5015 RECOVERY **RESIDENCES:** AND RENUMBERING CURRENT SECTION 4.5015 MISCELLANEOUS **PROVISIONS** TO CONFORM: (3) DIVISION USE DEFINITIONS, ARTICLE 6.1 USE DEFINITIONS TO ADD A NEW DEFINITION OF "RECOVERY RESIDENCE": AND (4) AMENDING THE GLOSSARY OF GENERAL TERMS TO ADD A DEFINITION OF "SINGLE HOUSEKEEPING UNIT", ALL RELATED TO PERMITTING RECOVERY RESIDENCE USES IN CERTAIN SINGLE-FAMILY AND MULTI-FAMILY FAMILY RESIDENTIAL ZONING DISTRICTS **SUBJECT** REGULATIONS TO MITIGATE NEIGHBORHOOD IMPACTS. INCLUDING SEPARATION REQUIREMENTS, REGISTRATION, AND LIMIT ON THE NUMBER OF RESIDENTS PERMITTED: PROVIDING FOR REASONABLE ACCOMMODATIONS AND APPEAL PROCESS; AND DEFINING TERMS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY: AND PROVIDING PENALTIES.

WHEREAS, federal and state fair housing laws protect the rights of persons with disabilities to obtain housing and pursuant to federal and state fair housing laws; and

WHEREAS, persons recovering from alcohol and drug addiction are considered persons with disabilities and thus are protected by fair housing laws only to the extent they are not currently using alcohol and drugs; and

WHEREAS, there are facilities that are not required to be licensed by the State of Arizona that are intended to transition such persons from an institutional setting where persons recovering from addictions agree to remain "clean and sober" during their residency. Such facilities are commonly known as "sober living homes" or "sober houses" or "recovery residences". The residents of these facilities generally live at the facility for six months or less; and

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WHEREAS, Town staff have received complaints about such facilities from neighbors voicing concerns about the transitory nature of the residents, parking, traffic, and the potential for impacts to the residential character of neighborhoods, which the Town Council desires to address by providing reasonable regulations to mitigate any impacts to neighbors and neighborhoods while providing persons with a disability opportunities for housing; and

WHEREAS, the Town Council has determined that the proposed amendments will not unreasonably restrict the rights of persons with a disability to fair housing while providing protections and mitigation of impacts to the residential character of neighborhoods, and it is in the best interest of the public health, safety and general welfare of the Town to adopt the proposed amendments; and

WHEREAS, all required public notice was provided and all required public meetings and hearings were held in accordance with applicable state and local laws.

NOW THEREFORE, BE IT ORDAINED by the Common Council of the Town of Gilbert, Arizona, as follows:

Section I. In General.

The Land Development Code of Gilbert, Arizona, Chapter I Zoning Regulations, Division 2 Land Use Designations, Article 2.1 Single Family Residential Districts, Section 2.103 Land Use Regulations, Table 2.103 Land Use Regulations – Single Family Residential Districts is hereby amended to read as follows (additions in ALL CAPS; deletions in strikeout):

| Use Classification       | SF- | SF- | SF- |    | SF- | SF- | SF- | l | SF- | Additional         |
|--------------------------|-----|-----|-----|----|-----|-----|-----|---|-----|--------------------|
|                          | 43  | 35  | 15  | 10 | 8   | 7   | 6   | D | A   | Regulations        |
| * * *                    |     |     |     |    |     |     |     |   |     |                    |
| Public Safety Facilities |     |     |     |    |     |     |     |   | _   |                    |
| Large-Scale              | P   | Р   | P   | P  | P   | Р   | P   | P | P   |                    |
| RECOVERY RESIDENCE       | P   | Р   | Р   | P  | Р   | Р   | P   | P | P   | SEE SECTION 4.5015 |
| * * *                    |     |     |     |    |     |     |     |   |     |                    |

The Land Development Code of Gilbert, Arizona, Chapter I Zoning Regulations, Division 2 Land Use Designations, Article 2.2 Multi-Family Residential Districts, Section 2.203 Land Use Regulations, Table 2.203 Land Use Regulations – Multi-Family Residential Districts is hereby amended to read as follows (additions in ALL CAPS; deletions in strikeout):

\* \* \*

| Use Classification                  | MF-L | MF-M | Additional Regulations |  |  |
|-------------------------------------|------|------|------------------------|--|--|
| * * *                               |      |      |                        |  |  |
| Public Safety Facility  Large-Scale | Р    | Р    |                        |  |  |
| RECOVERY RESIDENCE                  | Р    | P    | SEE SECTION 4.5015     |  |  |
| * * *                               |      | i    |                        |  |  |

The Land Development Code of Gilbert, Arizona, Chapter I Zoning Regulations, Division 4 General Regulations, Article 4.5 Supplemental Use Regulations is hereby amended to add new Section 4.5015 Recovery Residence to read as follows (additions in ALL CAPS; deletions in strikeout):

#### 4.5015 RECOVERY RESIDENCE

- **PURPOSE.** THE PURPOSE OF THESE REGULATIONS IS TO PERMIT PERSONS RECOVERING FROM SUBSTANCE ABUSE TO RESIDE IN A GROUP SETTING IN RESIDENTIAL NEIGHBORHOODS IN ORDER TO FACILITATE INTEGRATION AND STABILIZATION AND TO PROVIDE REASONABLE REGULATIONS TO MAINTAIN THE RESIDENTIAL CHARACTER OF NEIGHBORHOODS AND PREVENT A CONCENTRATION OF SUCH FACILITIES IN ANY PARTICULAR AREA SO AS TO INSTITUTIONALIZE THAT AREA.
- B. **REGISTRATION REQUIRED.** PRIOR TO BEGINNING OPERATIONS, THE OWNER OR OPERATOR OF A RECOVERY RESIDENCE SHALL SUBMIT A COMPLETED REGISTRATION FORM TO THE DEVELOPMENT SERVICES DEPARTMENT ON A FORM ESTABLISHED BY THE PLANNING AND DEVELOPMENT SERVICES MANAGER. THE REGISTRATION SHALL BECOME EFFECTIVE UPON VERIFICATION BY THE ZONING ADMINISTRATOR THAT THE REGISTRATION COMPLIES WITH THE REQUIREMENTS OF THE ZONING CODE AND THAT THE RECOVERY RESIDENCE OPERATOR HAS OBTAINED A VALID TOWN OF GILBERT BUSINESS LICENSE FOR THE RECOVERY RESIDENCE. A REGISTRATION SHALL TERMINATE WHEN THE RECOVERY RESIDENCE USE CEASES.
- C. **ZONING CONFIRMATION. PRIOR TO REGISTRATION, A** REQUEST FOR ZONING CONFIRMATION MAY BE SUBMITTED TO THE DEVELOPMENT SERVICES DEPARTMENT TO CONFIRM THAT THE PROPOSED LOCATION OF THE RECOVERY RESIDENCE IS PERMITTED UNDER THIS SECTION.
- PROCEDURES. IN ADDITION TO THE REGISTRATION FORM, D. THE APPLICANT SHALL SUBMIT AN OPERATIONS AND MANAGEMENT PLAN ("O&MP") TO ENSURE COMPLIANCE WITH STATE AND LOCAL LAWS. O&MP SHALL INCLUDE (1) NAME AND ADDRESS OF THE BUSINESS OWNER; (2) NAME, ADDRESS AND TELEPHONE NUMBER OF THE PROPERTY OWNER AND PERSON IN CONTROL OF THE PROPERTY; (3) IF THE BUSINESS OWNER AND

PROPERTY OWNER ARE NOT THE SAME PERSON OR ENTITY,
APPLICANT SHALL PROVIDE A NOTARIZED LETTER OF
AUTHORIZATION FROM THE PROPERTY OWNER; (4) EMERGENCY
CONTACT TELEPHONE NUMBER; (5) THE NUMBER OF PERSONS
OCCUPYING EACH BEDROOM; (6) MAXIMUM NUMBER OF
OCCUPANTS; (7) A FLOOR PLAN; (8) RESIDENT SCREENING PROCESS;
AND (9) GUEST AND RESIDENT RULES OF CONDUCT.

- E. **STANDARDS**. RECOVERY RESIDENCES SHALL BE LOCATED, DEVELOPED, AND OPERATED IN COMPLIANCE WITH THE FOLLOWING STANDARDS:
- 1. O&MP COMPLIANCE. THE RECOVERY RESIDENCE SHALL BE OPERATED AND MANAGED IN COMPLIANCE WITH THE O&MP SUBMITTED WITH REGISTRATION, A COPY OF WHICH SHALL REMAIN ON FILE WITH THE DEVELOPMENT SERVICES DEPARTMENT.
- 2. SEPARATION. THE MINIMUM SEPARATION BETWEEN RECOVERY RESIDENCES SHALL BE 1,200 FEET AS MEASURED FROM THE CLOSEST PROPERTY LINES. NO SEPARATION IS REQUIRED WHEN RECOVERY RESIDENCES ARE SEPARATED BY A UTILITY RIGHT-OF-WAY OF AT LEAST 300 FEET IN WIDTH, OR BY A FREEWAY, ARTERIAL STREET, CANAL, OR RAILROAD.
- 3. OCCUPANCY. THE NUMBER OF RESIDENTS, INCLUDING THE HOUSE MANAGER, SHALL NOT EXCEED TWO RESIDENTS PER BEDROOM WITH UP TO 3 RESIDENTS IN THE LARGEST BEDROOM IN THE HOME AND A MAXIMUM OF 11 RESIDENTS IN THE HOME
- 4. EXTERIOR APPEARANCE. THERE SHALL BE NO SIGN OR OTHER EXTERIOR INDICATION OF A RECOVERY RESIDENCE VISIBLE FROM THE STREET.
- 5. PARKING. PARKING FOR THE RECOVERY RESIDENCE SHALL BE ON-SITE AND COMPLY WITH LDC ARTICLE 4.2: OFF-STREET PARKING AND LOADING REGULATIONS.
- 6. TENANCY. NO RECOVERY RESIDENCE SHALL HOUSE ANY PERSON WHOSE TENANCY WOULD CONSTITUTE A DIRECT THREAT TO THE HEALTH OR SAFETY OF OTHER PERSONS OR WOULD RESULT IN SUBSTANTIAL PHYSICAL DAMAGE TO THE PROPERTY OF OTHERS.

- F. REQUEST FOR ACCOMMODATION. IF A RECOVERY RESIDENCE OWNER BELIEVES ANY REQUIREMENT OF THE ZONING CODE PREVENTS THE ESTABLISHMENT OF A RECOVERY RESIDENCE IN AN ECONOMICALLY VIABLE MANNER, THE OWNER SHALL SUBMIT TO THE ZONING ADMINISTRATOR A WRITTEN REQUEST FOR ACCOMMODATION AND THE REASONS WHY THE ACCOMMODATION IS REQUIRED. THE WRITTEN REQUEST SHALL CONTAIN SUFFICIENT FACTS TO ALLOW THE ZONING ADMINISTRATOR TO MAKE AN INDIVIDUALIZED DETERMINATION OF THE RECOVERY RESIDENCE'S NEEDS, TO ADDRESS THE TOWN'S SAFETY AND WELFARE CONCERNS, AND TO ASSURE COMPLIANCE WITH THIS SECTION. THE ZONING ADMINISTRATOR SHALL REVIEW THE WRITTEN REQUEST AND DETERMINE:
  - 1. WHETHER AN ACCOMMODATION SHOULD BE MADE PURSUANT TO THE REQUIREMENTS OF THE FEDERAL AND STATE FAIR HOUSING LAWS; AND
  - 2. IF SO, THE NATURE OF THE ACCOMMODATION TAKING INTO CONSIDERATION THE REQUIREMENTS OF THE FEDERAL AND STATE FAIR HOUSING LAWS, PUBLIC SAFETY AND WELFARE CONCERNS, AND THE RESIDENTIAL CHARACTER OF THE NEIGHBORHOOD.

THE ACCOMMODATION SHALL BE MADE ONLY TO THE EXTENT NECESSARY TO COMPLY WITH THE FEDERAL AND STATE FAIR HOUSING LAWS.

The Land Development Code of Gilbert, Arizona, Chapter I Zoning Regulations, Division 4 General Regulations, Article 4.5 Supplemental Use Regulations, Section 4.5015 Miscellaneous Provisions is hereby renumbered to be Section 4.5016.

The Land Development Code of Gilbert, Arizona, Chapter I Zoning Regulations, Division 6 <u>Use Definitions</u>, Article 6.1 <u>Use Definitions</u> is hereby amended to read as follows (additions in ALL CAPS; deletions in strikeout):

#### 6.1 Use Definitions

\* \* \*

RECOVERY RESIDENCE. A DWELLING UNIT OR BUILDING USED TO PROVIDE A STABLE, CLEAN AND SOBER ENVIRONMENT FOR INDIVIDUALS RECOVERING FROM SUBSTANCE ABUSE. INDIVIDUAL RESIDENTS DO NOT LIVE TOGETHER AS A SINGLE HOUSEKEEPING UNIT AND EVERY PERSON RESIDING IN THE RESIDENCE

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(EXCLUDING THE HOUSE MANAGER) IS AN "INDIVIDUAL WITH A DISABILITY", AS THAT TERM IS USED IN THE FEDERAL AND STATE FAIR HOUSING LAWS.

\* \* \*

The Land Development Code of Gilbert, Arizona, <u>Glossary of General Terms</u> is hereby amended to read as follows (additions in ALL CAPS; deletions in <del>strikeout</del>):

#### **Glossary of General Terms**

\* \* \*

SINGLE HOUSEKEEPING UNIT. AN INTERACTIVE GROUP OF PERSONS JOINTLY OCCUPYING A RESIDENTIAL UNIT, INCLUDING THE JOINT USE OF AND RESPONSIBILITY FOR COMMON AREAS, AND SHARING HOUSEHOLD ACTIVITIES AND RESPONSIBILITIES SUCH AS MEALS, CHORES, HOUSEHOLD MAINTENANCE, AND EXPENSES, AND WHERE, IF THE RESIDENTS ARE RENTERS, ALL ADULT RESIDENTS HAVE CHOSEN TO JOINTLY OCCUPY THE ENTIRE PREMISES OF THE DWELLING UNIT UNDER A SINGLE WRITTEN LEASE WITH JOINT USE AND RESPONSIBILITY FOR THE PREMISES, AND THE MAKEUP OF THE HOUSEHOLD OCCUPYING THE UNIT IS DETERMINED BY THE RESIDENTS OF THE UNIT RATHER THAN THE LANDLORD OR PROPERTY MANAGER.

\* \* \*

## Section II. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference, are hereby repealed.

## Section III. Providing for Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

## Section IV. Providing for Penalties

Any person found responsible for violating the provisions set forth in this ordinance shall be subject to the civil sanctions and habitual offender provisions set forth in Sections 5.1205 and 5.1206 of the Town of Gilbert Land Development Code. Each day a

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violation continues, or the failure to perform any act or duty required by this zoning ordinance, the Zoning Code or by the Town of Gilbert Municipal Court continues, shall constitute a separate civil offense.

PASSED AND ADOPTED by the Common Council of the Town of

Gilbert, Arizona, this 27<sup>th</sup> day of March, 2014, by the following vote: AYES: COOK, COOPER, DANIELS, LEWIS, PETERSEN, TAYLOR NAYES: NONE ABSENT: RAY EXCUSED: NONE ABSTAINED: NONE APPROVED this 27<sup>TH</sup> day of MARCH, 2014. ATTEST: APPROVED AS TO FORM: Muhted Huhen ichael Hamblin, Town Attorney I, CATHERINE A. TEMPLETON, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO.2479 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF GILBERT ON THE 27<sup>TH</sup> DAY OF MARCH, 2014, WAS POSTED IN FOUR PLACES ON THE 3rd DAY OF APRIL , 2014.

Catherine A. Templeton, Town Cle

## FINDINGS OF FACT

# Z13-02 LDC Recovery Residences

- 1. The proposed zoning amendment conforms to the General Plan as amended, any applicable Specific Area Plan, neighborhood, or other plan and any overlay zoning district.
- 2. All required public notice has been conducted in accordance with applicable state and local laws.
- 3. All required public meetings and hearings have been held in accordance with applicable state and local laws.
- 4. The proposed rezoning supports the Town's strategic initiative for Community Livability. It will maintain and protect the character of Gilbert's neighborhoods while providing locations within the community for these residential living facilities.